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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,149

12/27/2006

Rainer Krah

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EXAMINER

MAKI, STEVEN D

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

04/28/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/559,149	Applicant(s) KRAHL ET AL.	
	Examiner Steven D. Maki	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 and 37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-35 and 37 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1791

1) REQUIREMENT FOR UNITY OF INVENTION

As provided in 37 CFR 1.475(a), a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in a national stage application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim. See 37 CFR 1.475(e).

WHEN CLAIMS ARE DIRECTED TO MULTIPLE CATEGORIES OF INVENTIONS

As provided in 37 CFR 1.475(b), a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

- (1) A product and a process specially adapted for the manufacture of said product; or
- (2) A product and process of use of said product; or
- (3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or
- (4) A process and an apparatus or means specifically designed for carrying out the said process; or
- (5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

Otherwise, unity of invention might not be present. See 37 CFR 1.475(c).

- 2) This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Art Unit: 1791

species A - anti-skid spike having insertion element protruding past the sleeve element as shown in Figures 1-8 and 10;

species B - anti-skid spike having insertion element set back with respect to the sleeve element and the sleeve element protruding beyond the tread surface as shown in Figure 9.

AND

species #1 - anti-skid spike in which the receiver section of the base body and the corresponding passage in the sleeve element are cylindrical as shown in Figures 1 and 2.

species #2 - anti-skid spike in which the receiver section of the base body and the corresponding passage in the sleeve element form a truncated cone as shown in figure 3.

species #3 - anti-skid spike in which the receiver section of the base body is cylindrical and the corresponding passage of the sleeve element has the form of a truncated cone as shown in figure 4.

species #4 - anti-skid spike in which the receiver section of the base body has a snap-in element, which engages a snap-in receiver of the sleeve element as shown in figures 5 and 6.

species #5 - anti-skid spike in which the receiver section of the base body has a first section in a shape of a truncated cone and a following cylindrical second section and the passage in the sleeve element has an area which corresponds to the first section of the receiver section as shown in Figures 7 and 8.

Applicant is required, in reply to this action, to elect a single species (i.e. elect one of species A and B and one of species #1-#5) to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise require all the limitations of an allowed generic claim. Currently, the following claim(s) are generic: 1, 14, 20, 22, 25 and 31. The claims are deemed to correspond to the species listed above in the following manner:

Claims 1, 14, 20, 22, 25 and 31 are generic.

Claims 2-18, 21, 23-24, 26 and 35 correspond to Species A.

Claim 19 corresponds to species B.

Claims 10, 27 and 37 correspond to species #1.

Claims 11 and 28 correspond to species #2.

Claims 12, 29 and 37 correspond to species #3.

Claims 15, 16, 32, 33 and 37 correspond to species #4.

Claims 13, 17, 18, 30, 34 and 37 correspond to species #5.

3) The groups of inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Species #1-10 lack unity of invention because even though the inventions of these groups require the technical feature of "a sleeve element (20) applied on the receiver section (11) which fixes the insertion element (30) inserted into the recess (14) of the base body (10) in at least one of a positive manner and a non-positive manner", this technical feature is not a special technical feature as it does not make a contribution over the prior art in view of McCarroll (US

Art Unit: 1791

3,396,772) or Pellaton (US 2,982,325). In particular, the common technical feature ("a sleeve element (20) applied on the receiver section (11) which fixes the insertion element (30) inserted into the recess (14) of the base body (10) in at least one of a positive manner and a non-positive manner") is known as shown by Pellaton (Figure 1, rubber jacket 5 ("sleeve"), which surrounds gripper rod 2 (insertion element) and sleeve 3 of "base body", which also comprises flange 6) or McCarroll (Figure 3, lower body portion 12 ("sleeve") which surrounds upper tapered body portion 12 ("base body") and insert 18 ("insertion element").

Therefore, restriction is considered proper because the common technical feature is not a special technical feature.

4) Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Remarks

5) Applicant's arguments with respect to the restriction in the last office action dated 12-17-09 have been considered but are moot in view of the new restriction.

Applicant is requested to provide a copy of the verified English translation of the original claims 1-16 of applicant's International Application PCT/EP04/07171 filed 7-1-04 since the first set of claims in the e-Dan file (image file) for this application 10/559,149 are claims 1-19 of the amendment filed 12-14-09.

Art Unit: 1791

6) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven D. Maki/
Primary Examiner, Art Unit 1791

Steven D. Maki
April 23, 2010